



15 JUL 2003

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In re Application of :
Garcia et al. :
US Application No.: 10/048,056 :
PCT Application No.: PCT/FR00/02149 :
International Filing Date: 26 July 2000 :
Priority Date: 29 July 1999 :
Attorney's Docket No.: Q68190 :
For: A DISPENSER HAVING A HINGED :
DISPENSING HEAD :

DECISION ON PETITION
UNDER 37 CFR 1.181

This decision is in response to the "Request to Revive Application" filed on 22 November 2002, asserting timely response to a USPTO correspondence, which is being properly treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment in the above-referenced application.

BACKGROUND

On 9 April 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905), advising Applicants that an oath/declaration in compliance with 37 CFR 1.497(a) and (b) was required. An extendable 2-month reply period was provided. No response was filed on or before 9 November 2002, and no extension of time in accordance with 37 CFR 1.136(a) was obtained. The application was held abandoned as of 10 June 2002. A Notice of Abandonment (Form PCT/DO/EO/909) was mailed on 15 November 2002.

The instant petition asserts that a declaration was filed on 9 October 2002 along with a 4-month extension of time and the requisite fee. In support, the petition is accompanied by a copy of counsel's postcard receipt for the instant application, date-stamped "9 October 2002" by the USPTO, indicating that on that day, the USPTO received, *inter alia*, an executed declaration and power of attorney.

DISCUSSION

The USPTO records, consistent with counsel's postcard receipt, indicate receipt on 9 October 2002 of: a \$1,440 check for the 4-month extension of time; a declaration and power of attorney executed by both inventors; and a \$130 check for paying the surcharge for late filing of an oath/declaration. Apparently, these items were not matched with the file until recently.

CONCLUSION

In view of the above, the petition to withdraw the holding of abandonment in this application is **GRANTED**.

The Form PCT/DO/EO/909 mailed on 15 November 2002 is hereby **VACATED**.

However, the declaration submitted with the instant petition is defective, in that, the signature block of the first named inventor, Firmin Garcia, contains a signature that is apparently crossed-out. Alterations to the declaration must be initialed and dated. 37 CFR 1.52(c)(1); MPEP 605.04(a) (Rev. 1, Feb. 2003). Applicants are hereby given **ONE MONTH** from the mailing date of this decision to cure this defect by submitting a proper oath/declaration to avoid abandonment of this application. This time period is extendable under 37 CFR 1.136(a).

Any further correspondence with respect to this matter, deposited with the United States Postal Service, should be addressed to:

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